

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

**DEFENDANT ROSS MCLELLAN'S MOTION FOR SUPPLEMENTAL ORDER
DIRECTING STATE STREET NOT TO DISCLOSE MR. MCLELLAN'S *EX PARTE*
MATERIALITY ARGUMENTS TO ANY THIRD PARTY, THE PUBLIC, OR TO THE
UNITED STATES ATTORNEY'S OFFICE**

Now comes the Defendant, Ross McLellan, by and through undersigned counsel, and hereby respectfully requests this Honorable Court to issue a Supplemental Order in connection with this Honorable Court's May 24, 2018 Order, *see* Dkt. 380, directing that counsel for State Street shall not disseminate or disclose Mr. McLellan's *ex parte* materiality arguments to any third party or the public and, in particular, that it must not disclose Mr. McLellan's *ex parte* materiality arguments to the United States Attorney's Office, and further that it shall consider and treat the *ex parte* arguments as being under seal and *ex parte*.

As grounds and reasons therefore, Mr. McLellan states the following:

1. On May 22, 2018, Mr. McLellan moved this Honorable Court for leave to file his Motion to Compel Production of Documents Related to the U.S. Insurance Company Transition under seal and to partially proceed on an *ex parte* basis in order to prevent the unwarranted and premature disclosure of his trial strategy and trial preparation to the Government, *see* Dkt. 371;

2. On May 23, 2018, this Honorable Court granted Mr. McLellan's request for leave to file under seal and to partially proceed *ex parte*, *see* Dkt. 376;

3. Following issuance of the May 23, 2018 Order, Mr. McLellan filed an unredacted copy of his Motion to Compel Production of Documents Related to U.S. Insurance Company Transition with this Honorable Court and forwarded a redacted copy of the motion and a complete, unredacted set of exhibits to both State Street and the Government. *See* Dkt. 379;

4. On May 24, 2018, this Honorable Court issued an Order requiring Mr. McLellan to "serve a complete and unredacted copy of his motion, including supporting papers, on counsel for State Street." *See* Dkt. 380;

5. While Mr. McLellan does not object to providing an unredacted version of his Motion to Compel to State Street, for all of the reasons advanced in his motion to proceed on a partially *ex parte* basis, Mr. McLellan respectfully submits that State Street's counsel should not be permitted to disclose Mr. McLellan's *ex parte* materiality arguments to any third party, the public or to the United States Attorney's Office. Given the extensive cooperation by State Street to date with the U.S. Attorney's office, as well as the existence of the deferred prosecution agreement, Mr. McLellan respectfully seeks the remedy set forth herein.

WHEREFORE, Mr. McLellan respectfully requests this Honorable Court to issue a Supplemental Order directing that counsel for State Street shall not disseminate or disclose Mr. McLellan's *ex parte* materiality arguments to any third party, that it must not disclose Mr. McLellan's *ex parte* materiality arguments to the public or to the United States Attorney's Office, and further that it shall consider and treat the *ex parte* materiality arguments as being under seal and *ex parte*.

COMPLIANCE WITH LOCAL RULE 7.1(a)(2)

Undersigned counsel conferred with counsel for the government, and the government, by and through Stephen E. Frank, opposes the instant request. Counsel for State Street has not yet responded to the undersigned's afternoon email requesting State Street's position.

Respectfully Submitted,
Ross McLellan
By His Attorney,

/s/ Martin G. Weinberg
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Dated: May 24, 2018

CERTIFICATE OF SERVICE

I, Martin G. Weinberg, hereby certify that on this date, May 24, 2018, a copy of the foregoing documents has been served, via electronic mail, upon Assistant U.S. Attorney Stephen E. Frank and U.S. Department of Justice Trial Attorney Aisling R. O'Shea.

/s/ Martin G. Weinberg
Martin G. Weinberg